

FILED

APR 13 2018

UNITED STATES DISTRICT COURT

District of Montana

Clerk, U.S. Courts
District Of Montana
Missoula Division

UNITED STATES OF AMERICA

V.

ROCKLEY VENTURES LTD.

JUDGMENT IN A CRIMINAL CASE

(For Organizational Defendants)

CASE NUMBER: CR 14-27-BU-DLC-4

William W. Mercer, John E. Smith, Thomas W. McNamar

Defendant Organization's Attorney

THE DEFENDANT ORGANIZATION:

☒ pleaded guilty to count(s) 1 and 2 of the Superseding Information

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The organizational defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
21 USC §§ 331(a), 333(a)(2)	Introduction and Delivery of Misbranded Drugs	12/31/2012	1
21 USC §§ 331(i)(e), 333(a)(1)	Distribution of Counterfeit Prescription Drugs	1/31/2012	2

The defendant organization is sentenced as provided in pages 2 through 8 of this judgment.

☐ The defendant organization has been found not guilty on count(s) _____

☒ Count(s) 1-11 of Indictment, 1-9 of Superseding Indictment ☐ is ☒ are dismissed on the motion of the United States.

It is ordered that the defendant organization must notify the United States attorney for this district within 30 days of any change of name, principal business address, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant organization must notify the court and United States attorney of material changes in economic circumstances.

Defendant Organization's

Federal Employer I.D. No.: N/A

Defendant Organization's Principal Business Address:

Unit 4, 208 Industrial Park Warrens Street
Saint Michael, Barbados

4/13/2018

Date of Imposition of Judgment

Signature of Judge

Dana L. Christensen

Name of Judge

Chief Judge

Title of Judge

4/13/2018

Date

Defendant Organization's Mailing Address:

Unit 4, 208 Industrial Park Warrens Street
Saint Michael, Barbados

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PROBATION

The defendant organization is hereby sentenced to probation for a term of :
5 years.

The defendant organization shall not commit another federal, state or local crime.

If this judgment imposes a fine or a restitution obligation, it is a condition of probation that the defendant organization pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant organization must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page (if indicated below).

STANDARD CONDITIONS OF SUPERVISION

- 1) within thirty days from the date of this judgment, the defendant organization shall designate an official of the organization to act as the organizations's representative and to be the primary contact with the probation officer;
- 2) the defendant organization shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 3) the defendant organization shall notify the probation officer ten days prior to any change in principal business or mailing address;
- 4) the defendant organization shall permit a probation officer to visit the organization at any of its operating business sites;
- 5) the defendant organization shall notify the probation officer within seventy-two hours of any criminal prosecution, major civil litigation, or administrative proceeding against the organization;
- 6) the defendant organization shall not dissolve, change its name, or change the name under which it does business unless this judgment and all criminal monetary penalties imposed by this court are either fully satisfied or are equally enforceable against the defendant's successors or assignees; and
- 7) the defendant organization shall not waste, nor without permission of the probation officer, sell, assign, or transfer its assets.

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SPECIAL CONDITIONS OF SUPERVISION

1. Within 90 days after sentencing pursuant to this plea agreement, the defendants, their subsidiaries, and other related entities, including but not limited to Thorkelson Consulting, 4208081 Canada, and Global Drug Supply, shall permanently cease any sales of unapproved, misbranded, adulterated or counterfeit drugs in the United States through the internet or otherwise.
2. Within 90 days after sentencing pursuant to this plea agreement, the defendants, their subsidiaries, and other related entities shall surrender all domain names, and any legal rights with respect to use of the domain names, to the United States that they utilized in the sale or distribution of unapproved, misbranded, adulterated or counterfeit drugs in the United States, including but not limited to www.canadadrugs.com, www.cheapodrugs.com, and www.jandrugs.com.
3. The defendants agree to provide any reasonable assistance necessary to effectuate the transfer of control of the domain names, including but not limited to contacting the domain registrar responsible for register of each of the domain names and authorizing the transfer of the domain name to the United States. Further, the defendants shall assist in the transfer of the identified domains by delivery to the United States, upon the United States' request, of all necessary and appropriate documentation with respect to such domains, including consents to transfer, contracts with the registrar(s), proof of payment, and any and all other documents necessary to deliver good and marketable title to domains.
4. The defendants agree not to disclose, directly or indirectly, any customer information for individuals residing in the United States to any other pharmacy with a principal place of business or jurisdiction of entity formation outside the United States. The defendants further agree not to sell any of its customer information to any third party.
5. The defendants, their subsidiaries, and other related entities, including but not limited to Thorkelson Consulting; 4208081 Canada; and Global Drug Supply, agree to cooperate with the United States Attorney's Office, the FDA, and the United States Probation Office in the manner outlined in the plea agreement.

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CRIMINAL MONETARY PENALTIES

The defendant organization must pay the following total criminal monetary penalties under the schedule of payments on Sheet 4.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 525.00	\$ 5,000,000.00	\$ 30,250.00

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☒ The defendant organization shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant organization makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Eli Lilly and Company	\$30,250.00	\$30,250.00	

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TOTALS	\$ 30,250.00	\$ 30,250.00	
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☐ Restitution amount ordered pursuant to plea agreement \$ _____

☒ The defendant organization shall pay interest on restitution or a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 4 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant organization does not have the ability to pay interest, and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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ADDITIONAL TERMS FOR CRIMINAL MONETARY PENALTIES

The defendant shall immediately pay restitution in the total amount of \$30,250.00. Payment shall be made to the Clerk, United States District Court, P.O. Box 8537, Missoula, MT 59807 and disbursed as follows:

Eli Lilly and Company \$30,250.00

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SCHEDULE OF PAYMENTS

Having assessed the organization's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 5,000,525.00 due immediately, balance due
- ☐ not later than _____, or
☒ in accordance with ☐ C or ☒ D below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C or ☐ D below); or
- C ☐ Payment in _____ (e.g., equal, weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☒ Special instructions regarding the payment of criminal monetary penalties:
Payments are to be made to the Clerk, United States District Court, P.O. Box 8537, Missoula, MT 59807.

All criminal monetary penalties are made to the clerk of the court.

The defendant organization shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☒ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

Defendant; CANADADRUGS.COM LTD. PARTNERSHIP, CR 14-27-BU-DLC-1; RIVER EAST SUPPLIES LTD., CR 14-27-BU-DLC-6; and KRISTJAN ERIC THORKELSON, CR 14-27-BU-DLC-7, are all held accountable for the restitution amount imposed in each Defendant's respective judgment form. Additionally, Defendant; CANADADRUGS.COM LTD. PARTNERSHIP, CR 14-27-BU-DLC-1; and RIVER EAST SUPPLIES LTD., CR 14-27-BU-DLC-6; are all held accountable for the fine and below-listed forfeiture amounts imposed in each Defendant's respective judgment form.

- ☐ The defendant organization shall pay the cost of prosecution.
- ☐ The defendant organization shall pay the following court cost(s):
- ☒ The defendant organization shall forfeit the defendant organization's interest in the following property to the United States:
\$29,000,000.00 in United States Currency as ordered in the Court's Final Order of Forfeiture.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.